THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION.No.19365 OF 2005

Dt:22.09.2005

Between:

B.Ram Reddy

.. Petitioner

and

The APSRTC and another

.. Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION.No.19365 OF 2005

ORDER:

The petitioner was employed with the APSRTC. He retired as Deputy Superintendent (traffic) from the Sangareddy Depot of the Corporation on 28.02.2005. Just before his retirement, the first respondent issued proceedings through office order, dated 25.10.2004, stating that he was placed under suspension with effect from 31.08.1979 and thereafter, imposed a punishment of stoppage of increment for a period of two years, with cumulative effect through order dated

28.05.1981 and that the same was not given effect to. Proposals are mooted to give effect to the order, dated 28.05.1981, and to make necessary deductions, in the process. The petitioner challenges the same.

The learned counsel for the petitioner submits that it is not at all open to the respondents to give effect to an order, which is more than two decades old, at the verge of the retirement of the petitioner. He contends that when it is impermissible to anyone to recover an amount, which fell due about two decades, it is equally impermissible for the respondents to enforce the said order.

The learned standing Counsel for the Corporation on instructions submits that the order, dated 28.05.1981, imposing punishment of stoppage of increment for a period of two years with cumulative effect was not given effect to, due to inadvertence of the officials at the relevant point of time. It is urged that once the order of punishment was passed, the effect thereof cannot be erased.

The very perusal of the office order dated 25.10.2004 discloses that an order dated 28.05.1981 imposing the punishment of stoppage of increment for a period of two years with cumulative effect was not given effect to ever since it was passed. The respondents woke up almost after 24 years at a time when the petitioner was about to retire. If they intend to give effect to the same, for the purpose of calculating the retirement benefits, no exception can be taken to it. The reason is that as long as there is an order of stoppage of increment, it cannot be ignored. However, when it comes to the question of making any deduction of the amount already paid to the petitioner, it becomes impermissible. The respondent does not attribute any role to the petitioner, in the matter of not giving effect to the said order. At this stage, the petitioner cannot be penalized, for the inaction of the respondents

For the foregoing reasons, the writ petition is disposed of directing that:

a. it shall be open to the respondents to take into account the order dated 28.05.1981, for the purpose of calculating the retirement benefits.

b. The respondents, however, shall not be entitled to affect any recovery towards part of the salary paid to the petitioner till his retirement.

c. The respondents shall also finalise all the claims of the petitioner in relation to payment of retirement benefits to him, within a period of two months from the date of receipt of a copy of this order.

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22.09.2005

kdl